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ABSTRACT

This paper provides a historical and current perspective on civil rights and public education of students with disabilities, and offers an overview of the five sections of the Americans with Disabilities Act of 1990 (employment, public services, accommodations and services operated by private entities, telecommunications relay services, and miscellaneous provisions). It summarizes the relationship between the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The paper then identifies issues in achieving integration for all of society's citizens and discusses their impact on education and their policy considerations. These issues include transitions to employment and other postsecondary activities, the disability rights movement, educational reform, and the need for all society's members to have a true sense of value. Contains 52 footnotes. (JDD)

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THE AMERICANS WITH DISABILITIES ACT - Educational Implications and Policy Considerations

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Paper presented at the Annual Convention of the Council for Exceptional Children (69th, Atlanta, GA, April 1-5, 1991).

I. CIVIL RIGHTS AND PUBLIC EDUCATION OF STUDENTS WITH DISABILITIES - A HISTORICAL AND CURRENT PERSPECTIVE

It was the landmark case of Brown v Board of Education of Topeka (1) that provided the foreshadowing for what was to come for students with disabilities. In the Brown decision, the United States Supreme Court declared that in the field of public education, the doctrine of separate but equal has no place. (2) This declaration was exemplified by the following words:

> " Separate educational facilities are inherently unequal. This inherent inequality stems from the stigma created by purposeful segregation which generates a feeling of inferiority that may affect their hearts and minds in a way unlikely ever to be undone." (3)

While directly espousing the "separate is not equal" doctrine on behalf of racial minorities, the Brown decision facilitated the erosion of educational barriers for students with disabilities. Brown articulated - that

> "in these days, it is doubtful that any child may reasonably be expected to succeed in life if he [she] is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms."(4) These words, in principle were to be later echoed through the enactment of federal laws directly affecting persons with disabilities.

Unfortunately, nearly 20 years passed before the echo reached Congress through its passage of the Rehabilitation Act of 1973 (5) and then the Education for All Handicapped Children Act (EAHCA) in 1975, now known as the Individuals with Disabilities Education Act (IDEA). (6)

Section 504 of the Rehabilitation Act states -

No otherwise qualified individual in the United States...shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (7)

Section 504 became the first civil rights law specifically prohibiting discrimination of persons with disabilities. Despite its jurisdiction being limited to federal entities, it clearly has made an impact on eliminating discrimination and in fact, demonstrates this by becoming a model from which the Americans with Disabilities Act of 1990, hereinafter denoted as ADA, (8) was formulated.

The Individuals with Disabilities Act (IDEA) requires that students with disabilities receive a free appropriate public education in the least restrictive environment.(9) Children with disabilities were finally entitled to a public education to meet their individualized educational needs. Inclusive in this Act were various due process protections to assure the appropriate provision of services. (10)

Prior to the enactment of the EAHCA in 1975, several court cases established in law, the right to an education for children with disabilities. The first case, Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania (11) was filed on behalf of children with mental retardation who were being excluded from public education and training. The case ended in a consent decree enjoining the state of Pennsylvania from denying to any child with mental retardation, access to a free public program of education and training. Mills v. Board of Education of District of Columbia (12) shortly followed with a holding that there existed a duty to provide students with disabilities a publicly supported education suited to each child's needs and a constitutionally adequate prior hearing and periodic review of the child's program. As precursors to the EAHCA, these cases reflected the constitutional principles of equal protection and due process.

The 1986 amendments to the Education of the Handicapped Act (13) significantly extended a free appropriate public education to infants, toddlers, and children aged 3 to 5. These recent amendments, in addition to those pursuant to the Individuals with Disabilities Act of 1990, and subsequent cases to those mentioned above, demonstrate the numerous civil rights and protections afforded to students with disabilities today.

Many changes and much progress has occurred for students with disabilities since the 1970's. It is good to assess how far we have come but at the same time not forget how far we have yet to go and more importantly, in what direction we are going. For example, this assessment must not overlook the fact that historically in seeking special educational services for students with disabilities, we have in fact created and fostered a dual system, a "separate system" for special and regular education.

For the most part, special education has its own pupils, teachers, funding system and in some situations, its own facilities. Some educators today believe that the maintenance of this system is unfair and discriminatory.(14) In light of the Brown v. Board of Education of Topeka ruling that separateness in education is inherently unequal, placing students in "special" education, means that we are physically separating them from their peers. (15) The Americans with Disabilities Act may become an impetus for educational reform relative to the merger of regular and special education. The Act, through its stated findings and purposes certainly calls into question the validity for continuing the dual system. Such reform imbues a further extension of civil rights for students with disabilities which as of yet, have not been fully realized.

The ADA legislation does not afford education a provision in its own right. Never the less, implications for our educational system and students with disabilities, such as educational reform, prevails. In finding that discrimination still exists against individuals with disabilities in such critical areas as employment, housing, public accommodations, transportation, communication as well as in education, there is a presumption that current laws have not gone far enough in prohibiting discrimination and protecting civil rights of all citizens in the United States.

Pursuant to this and other findings, the ADA intends to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities. (16) To succeed in fulfilling an eradication of discrimination in its purest form it will be necessary to clear the dust that has settled on existing laws which purport to prohibit discrimination but have fallen short. The ADA mandate compels us to view current practices and policies affecting persons with disabilities with a fresh perspective.

On behalf of students with disabilities, the ADA challenges educators and policymakers to renew the spirit that was prevalent during Brown v. Board of Education of Topeka and at the time of the development of the EAHCA to ensure maximum opportunities for inclusive citizenship. This paper attempts to discuss some of the potential educational

implications for students with disabilities, their families, and the educational system itself, as well as the policy considerations we are challenged to explore as a result of the ADA. An overview of the ADA is provided first.

II. OVERVIEW OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

The Americans with Disabilities Act was signed into law on July 26, 1990. A comprehensive statement of law protecting the civil rights of citizens with disabilities, the ADA will allow for the exercise of their inalienable right to participate equally in the mainstream of society.(17)

A. Why do we need an Americans with Disabilities Act?

One likes to believe that humankind has a benevolence that overrides a need for laws that guarantee what one considers natural rights for all individuals. Unfortunately, history has demonstrated otherwise, mostly for individuals who society has labeled "different", "lesser than", "abnormal", and "vulnerable", among others.

Specific to the ADA legislation, the United States Congress established a number of findings in formulating a basis for the ADA. (18) Among those included are that historically, society has isolated and segregated individuals with disabilities and that despite improvements,

discrimination continues to be a serious and pervasive social problem. Discrimination continues against individuals with disabilities in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting and access to public services. Unlike other individuals who have experienced discrimination, persons with disabilities often have had no legal recourse to remedy the discrimination. Most poignant is the finding that individuals with disabilities have been subjected to purposeful unequal treatment due to characteristics beyond their control and resulting from stereotypic assumptions not truly indicative of their individual abilities. Significant too is the acknowledgement in the ADA legislation that the United States expends billions of dollars unnecessarily because of prejudice and discrimination of individuals with disabilities resulting in dependency and nonproductivity. The economic considerations without such legislation cannot be overlooked.

B. Who does the ADA protect?

The ADA protects persons with disabilities. The term "disability" (19) is defined as a physical or mental impairment that substantially limits one or more of the major life activities of the individual. "Major life activities" (20) include caring for one's self, performing manual tasks, seeing, hearing, speaking, breathing, learning and walking.

C. What does the ADA protect?

The ADA protects individuals with disabilities from discrimination. Its purpose is "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities and to provide clear, strong, consistent enforceable standards addressing discrimination against individuals with disabilities." (21)

There are five sections, called Titles, to the ADA:

Employment

The first section, known as Title I (22) of the ADA, relates to employment. An employer shall not discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions and privileges of employment.

A "qualified individual with a disability" (23) means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual seeks or holds. Reasonable accommodations must be provided by the employer unless it would cause undue hardship on the employer. Reasonable accommodation may include making existing

facilities used by employees readily accessible to and usable by individuals with disabilities, and job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. The term "undue hardship" (24) means an action requiring significant difficulty or expense, when considered in light of a number of factors:

1. the nature and cost of the accommodation needed;
2. the overall financial resources of the facility involved in the provision of reasonable accommodation; the number of persons employed; the effect on expenses and resources, or impact on the operation of the facility;
3. the overall financial resources and size of businesses of the employer with respect to the number of its employees; and the number, type and location of its facilities;
4. the type of operation of the covered entity, including the composition, structure, and functions of the workforce; the geographic separateness, administrative or fiscal relationship of the facility to the employer.

For purposes of this title, the ADA applies only to those employers whose industry affects commerce and who employ 15 or more individuals. The employment provisions of

the ADA take effect on July 26, 1992 for employers with 25 or more employees and on July 26, 1994 for employers with 15 or more employees. Regulations pursuant to this Title must be issued by July 26, 1991.

Public Services

Title II (25) of the ADA provides that no qualified individual with a disability shall, by reason of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by such entity. For purposes of the Title, a "qualified individual with a disability" (26) means one who, with or without reasonable modification to rules, policies and practices, the removal of architectural, communication and transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for purposes of receiving services or participating in programs or activities provided by a public entity.

Public transportation protections are provided under Title II, including the requirement that all new fixed route bus systems, rapid or light-rail vehicles or other new vehicles purchased or leased for public transportation must be readily accessible to and usable by persons with disabilities within 30 days of the Act's enactment. In addition, all new or existing transportation facilities must

be accessible, and all key stations or rail systems must be made accessible as soon as practicable.

Title II provisions take effect on January 26, 1992, with the exception of the transportation services denoted above. Regulations under this Title must be issued by July 26, 1991 through the Attorney General and the Secretary of Transportation.

Accommodations and Services Operated by Private Entities

Discrimination shall be prohibited against individuals with disabilities in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation. Identified as Title III (27) of the ADA, this section identifies twelve categories of public accommodations:

1. places of lodging (inn, hotel, motel)
2. establishments serving food or drink (restaurant, bar)
3. establishments of exhibition or entertainment (movie house, theater, concert hall)
4. places of public gathering (auditorium, convention center)
5. establishments selling or renting items (bakeries, clothing stores, shopping centers)
6. establishments providing services (laundromats,

travel services, insurance offices)

7. stations used for public transportation (airports, terminals, depots, but not including rail and bus stations which are covered under Title II.)
8. places of public display or collection (museums, libraries)
9. places of recreation (parks, zoos, amusement parks)
10 places of education (schools of all levels)
11. establishments providing social service (day-care and senior citizen centers, homeless shelters, food banks)
12. places of exercise or recreation (gyms, bowling alleys, golf courses).

Private clubs and religious organizations are excluded from coverage under Title III. This Title takes effect on July 26, 1992. Regulations must be issued by July 26, 1991.

Telecommunications Relay Services

Title IV (28) of the ADA ensures that telecommunications relay services are available to the extent possible, and in the most efficient manner to hearing-impaired and speech-impaired individuals so they may communicate through a telecommunications device for deaf persons (TDD) with an individual who can hear. In addition, television public service announcements, funded in whole or in part by the federal government, must be closed-captioned for the hearing

impaired.

Title IV takes effect on July 26, 1993. Regulations must issued by the Federal Communications Commission by July 26, 1991.

Miscellaneous Provisions

Title V,(29) the final title of the ADA, sets forth a number of miscellaneous provisions. Among these, the ADA is not to be construed to weaken any other civil rights laws which provides persons with disabilities greater protections than are afforded under the Act. The ADA prohibits retaliation and coercion for exercising the rights under the Act. Noteworthy too is that the ADA abrogates the states' 11th Amendment immunity. Thus, state agencies are subject to ADA claims and potential litigation. Attorney fees and litigation costs are available to a prevailing party for any action or administrative proceeding under the Act. The attorney fees provision in the ADA makes it quite clear that fees are available to those who prevail at the administrative hearing level. Although most federal courts of appeals and numerous district courts have interpreted that attorney fees under IDEA are recoverable for resolution of appeals obtained at the administrative level pursuant to the Handicapped Children's Protection Act,(30) the attorney fees provision under the ADA appears to leave no doubt.

Summary of the Relationship of the ADA and Section 504 of the Rehabilitation Act

It is important to have some sense of understanding with regards to similarities and differences between established federal laws affecting persons with disabilities and the ADA. Probably most significant to this understanding is the relationship of the ADA to Section 504 of the Rehabilitation Act. Most of the terms, concepts, and definitions of the ADA are modeled after Section 504. Both laws espouse the same underlying principle, that is, that entities under their jurisdiction cannot discriminate on the basis of disability in their programs, activities and services. To eliminate discrimination, the concept of equal opportunity is emphasized, not merely equal treatment. Thus, reasonable accommodations or modifications in policies and practices are required in order to allow the same opportunities for persons with disabilities as those without disabilities.

The language in the ADA makes it quite clear that it does not replace Section 504, but rather complements it. (31) Despite this point and the noted similarities, there are significant differences between the two laws. First, in terms of scope, the ADA is broader than Section 504. Section 504 prohibits discrimination only against entities or institutions receiving federal funds, whereas the ADA

prohibits discrimination on the basis of disability by all state and local governments, employers with more than 15 employees and nearly all places of public accommodation.

The ADA also extends protection from discrimination to persons without disabilities who are associated with or related to a person with a disability.(32) This protection applies to employment and public accommodation situations. For example, an employer cannot discriminate against a qualified employee or applicant who does not have a disability solely because a spouse, roommate or family member has a disability. Similarly, an individual without a disability cannot be denied access to a place of public accommodation because an associate has a communicable disease, or in situations where a family is denied because their child has a disability. (i.e.) access to a restaurant.

These are just a few of the differences between the ADA and Section 504. Other differences as well as similarities will be identified more clearly as ADA regulations are promulgated.

III. READING BETWEEN THE LINES - EDUCATIONAL IMPLICATIONS AND POLICY CONSIDERATIONS

It is not the author's intention in this discussion to specifically identify each and every term or phrase in the

ADA legislation for potential application to students with disabilities. There is ample time for that, particularly as regulations are promulgated pursuant to the Act. Rather, it is the author's desire to identify general topic areas that impact on education in order to stimulate discussion regarding potential educational implications and policy considerations for students with disabilities, families, and the educational system as a result of the ADA.

It is noteworthy to mention at this point that educators should be watchful for any policy changes from the U.S. Department of Education relative to Section 504 and IDEA as a result of the ADA. The ADA legislation does make some amendments to Section 504 and one in particular is relevant to students with disabilities. (33) The ADA denotes that the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs. (34) As a result, Section 504 has been amended to clarify that school districts may utilize regular disciplinary policies pertaining to illegal drug and alcohol use to students who have a disability solely by virtue of their alcohol or drug dependency, thereby bypassing the due process procedures set out at 34 C.F.R. 104.36 (35). The amendment does not apply, however, to students who have a disability because of their drug or alcohol dependency and who also have another non-related disabling condition. (36)

Best practices would dictate that school entities

continue to utilize the due process procedures despite this change and that the educational implication would be minimal and limited to Section 504 application. At the time of this writing, no regulations have been issued by the United States Department of Education to reflect this change. Additionally, no policy statements have been issued relative to the IDEA.

Policy Considerations

What policy considerations does the ADA beckon educators to consider in response to the ADA? Before this question can be answered there must be no doubt as to what policy the ADA itself has established. The ADA, as a matter of policy resolves to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; provide clear, strong, consistent, and enforceable standards in this regard; ensure the Federal Government plays a central role in enforcement; and to invoke congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce. (44) The language is powerful. The fundamental principle of the ADA is to provide services in the most integrated setting. (38). Education policy affecting students with disabilities must reflect this national principle.

The ADA provides the themes, the purpose, the prohibitions of discrimination against persons with disabilities and the remedies. What the ADA does not do, nor can any legislation itself accomplish, is change attitudes

that present a barrier to achieving an integrated society - a society that assumes integration. Personal experiences however can change attitudes. The ADA will allow persons without disabilities to see what persons with disabilities can do. It will assist in dispelling myths and preconceived conceptions. Educators, parents, and students can play a vital role towards achieving the goal of an integrated society.

Achieving integration for all society's citizens encompasses a number of factors including economic considerations, the strength of the disability rights movement, and the direction of educational reform.(40) An additional factor of which is paramount, is a true sense of value among society's members.

a. Transitions to Employment and other Postsecondary Activities

The economic considerations as a factor in achieving an integrated society is significant. "The American economy needs a well-educated work force, and the demographics of the future make it clear that this cannot be achieved if large portions of our population are discarded." (41) The educational system should not pass up the opportunity to be a significant player in seeing to it that persons with disabilities become a part of this necessary work force.

Students with disabilities and their families, upon

leaving the secondary school environment, often have a difficult time accessing appropriate adult services and/or postsecondary education and training programs. (42) Recent findings reveal that graduates are not adequately prepared for employment and are unable to access necessary community resources that will allow for community participation. (43) This finding is reflected in the statistic that approximately 66% of all adults with disabilities between the ages of 16 and 64 are not employed. (44)

Graduates with disabilities are more likely to be employed following school if comprehensive vocational training is provided and if a job is secured at the time of graduation. (45) Certainly the new IEP requirement relative to a mandated Transition Plan can facilitate to increase opportunities for post graduate employment and education.(46) Additionally, developing partnerships between the business community and schools for purposes of enhancing employment opportunities is a practice that our educational system as a matter of policy needs to pursue:

> "Workplace integration during school years can provide students with a clear understanding of what employers' expectations are and what a work experience is about, and can provide critical exposure to a range of jobs and career possibilities. Employers benefit by gaining an appreciation of what individuals with disabilities can offer, what their needs may be, and what their

capabilities and potentials are. This process is instrumental for breaking down attitudinal barriers and stereotypes." (47)

The ADA by prohibiting discrimination in employment settings, summons the education system to build partnerships with businesses. The business community similarly would be wise to receive the invitation with openness. Collaborative efforts with rehabilitation agencies, community colleges and other support providers is essential both for the education and business community. Achieving collaborations and partnerships as a matter of policy requires a commitment to the belief that students with disabilities have a right to become members of society's work force. The ADA has clearly established the framework for this. What educational policies will reflect the facilitation of this goal? If one of our tasks as educators is to prepare students through learning and personal development, for life beyond the classroom then it is incumbent upon us to aggressively develop practices that will address student needs and develop policies that will enhance this preparation relative to a students' transition to postsecondary activities. In a sense then, the ADA with its presumption of integration, implicates the education system to do its homework for students before they graduate.

b. <u>The Disability Rights Movement</u>

The educational system should not overlook its role in

what is termed the disability rights movement. The ADA legislation, a product of the movement, in no way brings closure to what this group has sought to accomplish.

In some respects the pattern of the civil rights movement for equality among persons with disabilities is similar to the civil rights movement on behalf of racial minorities. Put simply - voices spoke, legislation and courts heard the voices and responded, and subsequently, attitudes changed. Like the Civil Rights Act of 1964 (48) the ADA is responding to the voices of a minority group, and like the Civil Rights Act of 1964, the ADA inspires to be an impetus for changing attitudes and dispelling stereotypic assumptions about fellow human beings.

It was the disability rights movement that spirited the ADA and it will be that movement in part that sees to it that the purposes of the Act are fulfilled. Unlike the civil rights movement of the 1950's and 60's which saw the individuals themselves who were being discriminated against at the forefront of the movement, the civil rights movement for persons with disabilities, until recent, has primarily been driven by legal advocates, parents and other family members of persons with disabilities. Today, a growing number of individuals with disabilities are speaking out for themselves for civil rights, in what has been termed, the self-advocacy movement. (49)

The education system needs to ask where it sees itself

in the disability rights movement? The ADA challenges the education system to be an active participant through empowering students.

All students need to be empowered. Although laws are a mechanism for exercising empowerment, student knowledge and understanding, as well as skills necessary to communicate and assert rights under the laws are also critical to empowerment.

The ADA presents countless opportunities and ideas for creative teaching in citizenship and self advocacy that is important to all students. Even more so today, it will not be acceptable to say this type of instruction is irrelevant to students with disabilities. Educators and parents alike are challenged to bring real meaning to the school environment in the lives of students with disabilities, not only for their benefit but for the benefit of their peers as well. Even such a basic right as the right to vote can truly have a new meaning for students with disabilities.

c. Educational Reform

Policy implications relative to special education as a separate system in addition to other concepts for educational reform should be considered as a result of the ADA. As previously stated, providing services in the most integrated setting is a fundamental principle of the ADA. To begin with, in order to overcome ADA's finding that segregation of

persons with disabilities is still a pervasive problem, continued segregation of students with disabilities must seriously be questioned. "The ultimate rationale for quality education of students in an integrated setting is based not only on economics, law, pedagogy, but also on values. The current failure to provide quality education to all students and the perpetuation of segregated settings is morally unsound and educationally unnecessary". (50) A revisit to the least restrictive environment (LRE) principle of the IDEA is certainly in order at minimum, not only to determine the status of student integration relative to LRE, but also in regards to how much further we must go to ensure quality integration of all students with disabilities.

Educational reform relative to an elimination of the dual, regular and special education system as alluded to previously, is a timely challenge for educational policy makers. Proponents for merging the regular and special education system who rationalize that a dual system fosters an inappropriate and unfair attitude about the education of students with disabilities can look to the principles upon which the ADA is premised and find support for questioning the validity of maintaining the dual system.

d. A Sense of Value

Ultimately to achieve to become an integrated society, there must be present, a sense that all persons have value and that all are valued. Self-determination or control over

decision-making is something granted to persons who are valued. (51) Being seen as valued is reciprocal to being seen as having value. The ADA has the foundation for fostering a sense of value for persons with disabilities and for society as a whole. Unless the commitment is made to allocate the necessary resources, including financial, to modify current federal and state laws and policies that present barriers to inclusion, we will have used the ADA as a falsity and we will not have achieved a true sense of value towards persons with disabilities. It is critical that we reverse the direction of dollars that continue to support institutionalization and segregation in living and working environments as well as health care services. Clearly the ADA promises independence, freedom of choice, self-determination, and a right to participate fully in our communities. These principles constitute in part, our constitutional values. The application of these values is the challenge that lies ahead. The education system for its part, must be committed to redirection and reallocation in order to maximize opportunities for inclusion and acceptance of all students.

CONCLUSION

The ADA, without addressing education in its own right, challenges it on behalf of students with disabilities to

consider how it can ensure the elimination of discrimination and the acceptance of students with disabilities as equal and fully integrated citizens. To meet this challenge, requires changes in policy reflected both in attitude and in the allocation of resources to support the changes. Transition planning and educational reform as well as participation in the disability rights movement are just some of the ways education can have a significant impact.

> In the words of Justin Dart, (52) "We must undertake a courageous reallocation of our society's resources from paternalism to independence and productivity. We must invest in a continuum of new and strengthened programs to liberate people with disabilities from dependency, and empower them to be equal and productive participants in the mainstream."

What better place to start than in the hearts and minds of our students?

Footnotes

1. Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).
2. 347 U.S. at 495; See also Plessy v. Ferguson, 163 U.S. 537 (1896). The "separate but equal" doctrine permitted segregation through separate schools for black students and for white students.
3. 347 U.S. at 494.
4.. 347 U.S. at 493.
5. 29 U.S.C.A. s794 (West Supp.1990).
6. Pub. L. No. 94-142, 20 U.S.C.A ss 1400 - 1485 (1990); Individuals with Disabilities Education Act of 1990 (IDEA) - Pub. L. No. 101-476 (1990).
7. 29 U.S.C.A. s794 (West Supp. 1990).
8. Pub. L. No. 101-336, 42 U.S.C. 12101 (1990).
9. 20 U.S.C.A. ss 1400-1485 (1990); See generally 34 C.F.R. s 300.
10. Id. at 34 C.F.R ss 300.500 - 300.514 (1988).
11. 343 F. Supp. 279 (E.D. Pa 1972).
12. 348 F. Supp. 866 (D.D.C. 1972).
13. Pub. L. No. 99-457, 20 U.S.C. ss 1400-1485 (1990).
14. S. Stainback, W. Stainback and M. Forest, Educating All Students in the Mainstream of Regular Education, W. Stainback, S. Stainback and G. Bunch, Chapter 2 - A Rationale for the Merger of Regular and Special Education, 15 (1989).
15. Id.

16. 42 U.S.C. ss 12101; Sec. 2(b)(1).
17. Justin Dart; A.D.A.: Landmark Declaration of Equality; Worklife, Volume 3, No. 3, page 1, Fall, 1990.
18. 42 U.S.C. ss 12101; Sec. 2(a)(1-9).
19. 42 U.S.C. ss 12101; Sec. 3(2).
20. House Report 101-485, part 3, p.28 (1990).
21. 42 U.S.C. ss 12101; Sec. 2(b)(1-4).
22. 42 U.S.C. ss 12101; Sec. 101-108.
23. Id. at Sec. 101(8).
24. Id. at Sec 101(10).
25. 42 U.S.C. ss 12101; Sec. 201-246.
26. Id. at 201(2).
27. 42 U.S.C. ss 12101; Sec. 301-310.
28. 42 U.S.C. ss 12101; Sec. 401-402.
29. 42 U.S.C. ss 12101; Sec. 501-514.
30. Pub. L. No. 99-372, amending 20 U.S.C. ss1415(e)(4) and (f).
31. 42 U.S.C. ss 12101; Sec. 501(a).
32. 42 U.S.C. ss 12101; Sec. 302; See also National Mental Health Association, ADA - Legislative Series (1990);p. 26.
33. 42 U.S.C. ss 12101; Sec. 512(a).
34. 42 U.S.C. ss 12101; Sec. 510(a).
35. 42 U.S.C. ss 12101; Sec. 512(a).
36. Education for the Handicapped Law Report, Volume 17, Supplement 16 (Highlights), March 8, 1991.
37. 42 U.S.C. ss 12101; Sec. 2(b)(1-3).

38. House Report 101-485, Part 2, p. 102 (1990).

39. D. Kerzner & A. Gartner, Beyond Separate Education - Quality Education for All, 284 (1989).

40. Id.

41. Id.

42. National Council on Disability - A Report to the President and the Congress of the United States - The Education of Students With Disabilities: Where Do We Stand? p. 40 (1989).

43. Id.

44. Id.

45. Id. at 42.

46. Pub. L. No. 101-476, 20 U.S.C.A. ss 1400-1485 (1990).

47. National Council on Disability - A Report to the President and the Congress of the United States - The Education of Students with Disabilities: Where do We Stand? p. 43 (1989).

48. 42 U.S.C.A. 2000d.

49. Nancy Ward; Self-Determination: National Conference on Self-Determination, January 9-10, 1989, Arlington, Virginia.

50. Lipsky & Gartner; p. 285.

51. Lipsky & Gartner; p. 260.

52. Justin Dart; ADA: Landmark Declaration of Equality; Worklife, Volume 3, No. 3, page 1, Fall, 1990.